IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| REBECCA BROWN and AUGUST TERRENCE ROLIN, on behalf of themselves and all others similarly situated, |))) Civil Action No. 2:20-cv-64-MJH-LPL |
|---|---|
| Plaintiffs, |) |
| v. |) |
| TRANSPORTATION SECURITY ADMINISTRATION, et al., |)) |
| Defendants. |)) |

<u>DEFENDANT STEVEN W. DAWKIN'S UNOPPOSED MOTION FOR ADDITIONAL</u> PAGES TO REPLY TO PLAINTIFFS' OPPOSITION TO HIS MOTION TO DISMISS

Defendant Steven W. Dawkin respectfully moves this Court for an additional ten pages, for a total of fifteen pages, to reply to Plaintiffs' opposition to his motion to dismiss. This page amount is consistent with that set forth in United States District Judge Marilyn J. Horan's Standing Order and Procedures on Civil Motion Practice, § 6, but exceeds the five-page limit provided in this Court's Order on Motions Practice, § 4.

As this Court is aware, Plaintiffs seek money damages from Defendant Dawkin in his individual capacity under <u>Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics</u>, 403 U.S. 388 (1971). As one court has noted, "the proper scope of <u>Bivens</u>" is an especially "complex" matter "often involving thorough analysis of alternative remedy schemes created by Congress or factors counselling hesitation in the absence of such action." <u>Butts v. Martin</u>, 877 F.3d 571, 588 (5th Cir. 2017). Likewise, the qualified immunity defense, which is also at issue, requires examining relevant case law in sufficient depth to assess whether "every

reasonable official" would have been on notice that the allegations in the 100-plus page amended complaint could give rise to individual-capacity liability. Ashcroft v. al-Kidd, 563 U.S. 731, 741 (2011) (quotation omitted). Defendant Dawkin has moved to dismiss Plaintiffs' claims, raising both a special factors defense, under which this Court should not imply the remedy Plaintiffs seek, and a qualified immunity defense, in a twenty-five-page brief in support of his motion. ECF No. 48. In response, Plaintiffs filed a twenty-five-page opposition brief. ECF No. 53.

Undersigned counsel are currently drafting Defendant Dawkin's reply, due Friday,

October 2, and are working diligently to respond as concisely as possible to the arguments raised in Plaintiffs' opposition. Despite undersigned counsel's best efforts to narrowly tailor the reply brief, in order to ensure Defendant Dawkin the opportunity to adequately address the complex questions at issue in this case, he respectfully requests from this Court an additional ten pages to file his reply, for a total of up to fifteen pages. This is the first request for leave to file excess pages by Defendant Dawkin in this case.

Undersigned counsel has consulted with counsel for all parties concerning this request.

The United States does not object. Plaintiffs consent to the request on the condition that

Defendant Dawkin consents to Plaintiffs' filing of a sur-reply, limited to five pages, which they may or may not file. Defendant Dawkin consents to that putative request. A proposed order is attached.

Dated: September 30, 2020 Respectfully submitted,

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